

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MARYLAND  
(Southern Division)**

SEAN D. COOK	:
Plaintiff	:
v.	: Civil Case No. PWG-13-cv-00882
NATIONWIDE INSURANCE COMPANY, et al.	:
and/or	:
NATIONWIDE MUTUAL INSURANCE COMPANY	:
and/or	:
NATIONWIDE GENERAL INSURANCE COMPANY	:
and	:
ERIC C. HITZEL	:
and	:
ANDREW B. GREENSPAN	:
and	:
THE LAW OFFICES OF ANDREW B. GREENSPAN	:
	:
Defendants	:

**MEMORANDUM OF POINTS AND AUTHORITIES**

Rule 15 requires that a party must request leave of court, or the consent of the opposing party to file an amended complaint.

The Plaintiff previously filed an amended complaint on or about May 6, 2013.

Although the Defendants had consented to the Plaintiff filing a response to Defendants' Motion to Dismiss by May 6, 2013, apparently the Defendants did not consent to a similar extension of time for Plaintiff to file an amended complaint.

As a practical matter the amended complaint filed on May 6, 2013, clarified the factual questions that the Defendants had with respect to the claims made by Plaintiff against the Defendants.

Nonetheless, the Defendants filed a motion to strike the amended complaint claiming that it was untimely.

That motion to strike is presently pending and opposed by the Plaintiff.

In order to clarify the issues, and rectify the state of the pleadings, the Plaintiff submits the attached amended complaint.

While Plaintiff could cite a long litany of cases for the propriety of allowing an amended complaint, the court need look no further than Rule 15 which provides that the court shall freely grant leave to file an amended complaint when justice so requires.

Obviously, justice requires leave in this case as the Defendants are moving to dismiss Plaintiff's claim for

violations of an insurer's good faith duty to its insured, its obligation to exercise reasonable care in adjusting a claim against its insured, and the obligations of employees and lawyers to the client and the insured under the same set of facts.

In order to clarify these causes of action Plaintiff has set them forth in separate counts as apparently requested by the Defendants. Under the circumstances the Plaintiff is not changing the factual claims against the Defendants but simply clarifying the same.

Accordingly, it is respectfully requested that the Honorable Court grant leave to Plaintiff to file the amended complaint and a red lined copy of the same which is incorporated by reference.

It is respectfully requested that the Honorable Court rule that the amended complaint be deemed filed as of the date of May 6, 2013, when it was originally filed and/or the date of the filing of this motion.

COSTELLO & EDWARDS, LLC

By: /s/John F.X. Costello  
John F.X. Costello, #04153  
5845 Allentown Road  
Camp Springs, MD 20746  
(301) 925-9080

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 6th day of June, 2013, a copy of the Memorandum of Points and Authorities in support of Plaintiff's Motion for Leave to File Amended Complaint, was electronically filed and served upon:

Kambon Raymond Williams, Esquire  
Patricia McHugh Lambert, Esquire  
Pessin Katz Law, P.A.  
901 Dulaney Valley Road  
Suite 400  
Towson, MD 21204

/s/John F.X. Costello \_\_\_\_\_